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Dated: August 3, 2005

Signature:

(Stacey L. Myers)

Docket No.: 219002029210
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Sundeep DUGAR et al.

Application No.: 10/757,023

Filed: January 13, 2004

For: PIPERIDINE/PIPERAZINE-TYPE
INHIBITORS OF p38 KINASE

Confirmation No.: 3276

Art Unit: 1624

Examiner: Kahsay Habte, Ph.D.

AMENDMENT UNDER 37 C.F.R. § 1.111

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in response to an Office Action herein, mailed 3 June 2005, time for response to which was set to expire 3 July 2005. Further restriction was required.

Applicants appreciate the helpful telephone conversation with Examiner Habte concerning the restriction. It is understood that there is a variety of compounds included within the scope of the claims and that searching may be quite difficult. Applicants would like to assist the Office in any way possible in this regard.

As applicants see it, Group I is restricted to those portions of the claims where L^1 is CO, L^2 is CH_2 and Ar^2 includes only 5-membered heterocyclic rings that are not fused to additional aromatic moieties, and selected 6-membered (pyridine) and fused bicyclic heterocyclic rings.

Group II includes compounds where L^1 is a linker other than CH_2 (sic, CO), L^2 is a linker other than CH_2 , and Ar^2 represents other heterocyclic rings, such as 6-membered rings and fused rings.

Groups III and IV are directed to claims that represent an invention that was not elected in response to the previous restriction requirement.

Respectfully, applicants would appreciate it if the Office would consider revising the characterization of Groups I and II to reflect an election of species rather than restriction. There are several reasons for this.

First, Groups I and II do not include all embodiments that are within the scope of the claims. Thus, if one of these groups is elected, the resultant would be not two applications, but following the pattern set by the proposed restriction, at least five. Not present as possibilities are the following embodiments:

1. Compounds wherein Ar^2 is a 5-membered heterocycle and the embodiments of the linkers are other than $L^1 = CO$ and $L^2 = CH_2$.
2. Embodiments where Ar^2 is a 6-membered or fused ring heterocycle and L^1 is CO and L^2 is CH_2 .
3. Embodiments where Ar^2 is phenylene, divalent naphthylene, or other non-heterocyclic forms do not appear to be contemplated as part of either Group I or II. Following with

logic of the present restriction requirement, this might be further subdivided in terms of the nature of the linker or the number of members of the ring.

Applicants understand that they must make a provisional election regardless of any objection. Therefore, applicants elect to prosecute the invention of Group I with traverse. Applicants propose a compromise position, in light of the explanation by the Examiner that some of the rings recited in claim 9 are ahead of piperazine in the U.S. classification system. This proposal is that restriction be made between Ar² heterocycles of five members and lacking fused rings, and ideally that group would also include heterocycles of six members lacking fused rings since the Examiner's Group I included pyridine; these would be grouped as a separate invention from Ar² as any other ring system (including heterocycles and non-heterocyclic aromatics), but that the choice of a linker be made an election of species. In that event, applicant would still need to make an election, and would elect the proposed group having Ar² as a monocyclic heterocycle of five (or preferably of five or six) members, and would elect for searching the species represented by the linkers in Group I as they were defined by the Examiner, i.e., L¹ = CO and L² = CH₂.

Any consideration that can be given by the Examiner to implementing this suggested compromise position would be greatly appreciated.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorize the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket No. 219002029210.

Respectfully submitted,

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Dated: August 3, 2005

By: For

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